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In the High Court of Judicature at Madras

Dated:10.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.54 of 2006

V. Nithya .. Petitioner

vs.

1. The Government of Tamil Nadu
   rep. by its Secretary
   Prohibition and Excise Department
   Fort St. George
   Chennai 9.

2. The Commissioner of Police
   Salem City.

3. The Sub Inspector of Police
   Sooramangalam Police Station
   Salem City. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for the records of the detention order made in CMP No.33/B.t/Salem City/2005 dated 24.12.2005 passed by the commissioner of Police Salem City the second respondent herein and set aside the same and direct the respondents to produce the detenue Mr Vaidyanathan alias Vaithi S/o Arumugam now Confined in Central Prison at Salem before this Hon'ble Court and set the detenue Mr. Vaidyanathan alias Vaithi S/o Arumugam at liberty as stated therein.

For petitioner : Mr. P. Kumaresan
for Mr. G.K.R. Pandiyan
For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Nithya, who challenges the impugned order of detention dated 24.12.2005, detaining her husband Vaidyanathan @ Vaithi, as "Bootlegger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenu dated 05.01.2006 was received by the Government on 09.01.2006; remarks were called on 10.01.2006, remarks were received on 18.01.2006. Even after receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 19.01.2006; order was passed by the Minister for Prohibition and Excise on 20.01.2006, rejection letter was prepared on 30.01.2006; the same was sent to the detenu on 31.01.2006 and the rejection letter was served on the detenu only on 03.02.2006. As rightly pointed out though the concerned Minister has passed an order on 20.01.2006, there is no explanation or reason for not forwarding the same to the detenu till 03.02.2006. In the absence of any explanation, we hold that the delay between 20.01.2006 and 03.02.2006 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary
   Government of Tamil Nadu
   Prohibition and Excise Department
   Fort St. George
   Chennai 9.

2. The Commissioner of Police
   Salem City.

3. The Sub Inspector of Police
   Sooramangalam Police Station
   Salem City.

4. The Superintendent
   Central Prison, Salem.
   (In duplicate for communication to detenue)

5. The Joint Secretary to Govt,
   Public (law & order) Department,
   Fort St.George, Chennai - 4

6. The Public Prosecutor,
   High Court, Madras

+ One cc to G.K.R.Pandiyan, Advocate SR No 18425

MF(CO)
CGS/21.4

Order in
H.C.P.No.54 of 2006

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